

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of DANIEL A. MASDEN and U.S. POSTAL SERVICE,  
POST OFFICE, Brighton, Calif.

*Docket No. 96-2370; Submitted on the Record;  
Issued September 15, 1998*

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DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,  
WILLIE T.C. THOMAS

The issue is whether appellant has met his burden of proof in establishing that he sustained a recurrence of disability on November 2, 1994 causally related to his March 22, 1994 employment injury.

The Board has duly reviewed the case on appeal and finds that appellant failed to meet his burden of proof in establishing that he sustained a recurrence of disability on November 2, 1994 causally related to his March 22, 1994 employment injury.

Appellant filed a claim alleging that on March 22, 1994 he injured his right shoulder in the performance of duty. The Office of Workers' Compensation Programs accepted appellant's claim for right shoulder strain on May 24, 1994. Appellant filed a notice of recurrence of disability alleging on November 2, 1994 he sustained a recurrence of disability due to his accepted employment injury. By decision dated August 3, 1995, the Office denied appellant's claim finding that he failed to establish a causal relationship between his current disability and his accepted injury. Appellant requested reconsideration on June 19, 1996 and by decision dated July 12, 1996, the Office denied modification of its prior decision.

Appellant has the burden of establishing by the weight of substantial, reliable, and probative evidence, a causal relationship between his recurrence of disability commencing November 2, 1994 and his March 22, 1994 employment injury.<sup>1</sup> This burden includes the necessity of furnishing medical evidence from a physician who, on the basis of a complete and accurate factual and medical history, concludes that the disabling condition is causally related to employment factors and supports that conclusion with sound medical reasoning.<sup>2</sup>

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<sup>1</sup> *Dominic M. DeScala*, 37 ECAB 369, 372 (1986); *Bobby Melton*, 33 ECAB 1305, 1308-09 (1982).

<sup>2</sup> *See Nicolea Bruso*, 33 ECAB 1138, 1140 (1982).

In support of his claim, appellant submitted a narrative statement noting that the “constant over-extension of the upper extremities, sometimes soaked by rain or snow caused a violent return of the symptoms, each time worse than before.”

Appellant submitted several medical reports and records in support of his claim. However, most of the reports did not address the causal relationship between appellant’s accepted employment injury of right shoulder strain and his current condition with resultant disability. Therefore, these reports are not sufficient to meet appellant’s burden of proof.

In a report dated July 17, 1995, Dr. Keith Baker, a Board-certified internist, stated that appellant injured his right shoulder on June 4, 1995 reaching into the back of his car. Dr. Baker stated, “This episode was similar to previous episodes and clearly related to the underlying shoulder problem he has had on the right.”

On June 4, 1996 Dr. Baker noted appellant’s history of injury and initial diagnosis of shoulder sprain. He stated on March 25, 1994 he diagnosed rotator cuff strain and that he discharged appellant from care on April 8, 1994 as his symptoms had fully resolved. Dr. Baker reviewed his medical records relating to appellant’s shoulder (included in the record) and concluded that appellant’s symptoms are essentially the same as those he was having in March 1994. Dr. Baker diagnosed a chronic rotator cuff tendinitis, bursitis and impingement syndrome on both shoulders. He stated, “It is clear to me that the problems he was experiencing in 1995 as well as the intermittent problems between that and the prior episode in March 1994 are all related to the same underlying problem which is tendinitis, bursitis and impingement syndrome in the right shoulder.” Dr. Baker noted, “This kind of problem is characterized in the long term by progression and continuing symptoms and problems, particularly in someone who continues to work.” He concluded that all of appellant’s visits and symptoms were related to the right shoulder injury of March 22, 1994 and due to the underlying condition of bursitis, tendinitis and impingement syndrome.

On June 11, 1996 Dr. Baker reiterated that appellant had experienced ongoing problems with bursitis, tendinitis and impingement of his right shoulder since his initial injury.

Although these reports provide a history of injury and an opinion that appellant’s current condition and disability is causally related to his accepted employment injury, Dr. Baker failed to provide the necessary medical rationale explaining why a right shoulder strain which resolved in May 1994 resulted in the conditions diagnosed in February 1995. Although Dr. Baker opined that the diagnoses were merely different names for the same condition, this opinion without explanation of how the diagnosed conditions of chronic tendinitis and bursitis and impingement syndrome are related or result from a shoulder strain is not sufficient to meet appellant’s burden of proof. Furthermore, Dr. Baker indicated that appellant’s continued employment duties effected his continuing symptoms and problems. A recurrence of disability is defined as a spontaneous material change in the employment-related condition with an intervening injury.<sup>3</sup> Therefore, it is unclear from his reports and appellant’s narrative statement whether appellant’s claim might more properly be pursued as an occupational disease.

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<sup>3</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Recurrences*, Chapter 2.1500.3(b)(1) (January 1995).

The decisions of the Office of Workers' Compensation Programs dated July 12, 1996 and August 3, 1995 are hereby affirmed.

Dated, Washington, D.C.  
September 15, 1998

George E. Rivers  
Member

David S. Gerson  
Member

Willie T.C. Thomas  
Alternate Member